

From: [C. Montange](#)
To: [Tabachnick, Alan](#)
Subject: Harsimus environmental comment
Date: Friday, December 4, 2020 5:07:07 PM
Attachments: [citydec4.pdf](#)

Courtesy copy, responsive to your inquiry.

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4 December 2020

Victoria Rutson
Director,
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, D.C. 20423

Re: Conrail – Ab. Ex. – in Hudson County, NJ,
AB 167 (Sub-no. 1189X)

Dear Ms. Rutson:

Reference is made to a letter from Consolidated Rail Corporation (“Conrail”) per its then-counsel Robert Jenkins to you as Director of the Office of Environmental Analysis dated September 24, 2018, filed as an “environmental comment.” Conrail’s letter noted that the City of Jersey City, the Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, Rails to Trails Conservancy (termed “City Parties”), the LLCs and Jersey City Embankment Associates and Conrail had commenced settlement negotiations and were exchanging drafts that aimed at “settling the various disputes that have arisen in connection with the abandonment of the Harsimus Branch in a way that will satisfy reasonable historic preservation objectives, reasonable public interest and reasonable property development objectives.”

The City Parties believe that the failure of the Surface Transportation Board to address section 110(k) issues before or in its recently circulated proposed draft section 106 Memorandum of Agreement (“MOA”), and recent comments of some parties (e.g., Advisory Council on Historic Preservation and the New Jersey State Historic Preservation Office) in this proceeding on that MOA, may have been predicated (at least in part) on the assumption that there were on-going settlement negotiations per Conrail’s referenced Sept. 2018 letter.

This is to advise that Conrail, per their local counsel Connell Foley LLP, has advised the City and other parties that they will not be participating in further settlement discussions. Subsequent attempts by the City, Rails to Trails Conservancy and Embankment Coalition on November 30, December 1, and December 3, 2020 to obtain reasons or explanations in an attempt to address any concerns that Conrail might have so that settlement discussions may proceed have thus far been unsuccessful. If Conrail will provide an explanation for their withdrawal, the parties may be able to address any concerns, such that settlement negotiations may proceed or, in the alternative, the parties may pursue alternative actions.

While the City Parties and, we believe, the developer interests are willing to continue discussions, it is not clear that a reasonable settlement is possible without the participation of Conrail.

By my signature below, I attest to service by email or USPS on this date on the parties on the service list.

Respectfully submitted,

/s/

Charles H. Montange
Attorney for City of Jersey City,
PRR Harsimus Stem Embankment
Preservation Coalition, and
Rails to Trails Conservancy

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PRR Harsimus Stem Embankment Preservation Coalition